



County of San Bernardino

F A S

STANDARD CONTRACT

FOR COUNTY USE ONLY

E	X	New	Vendor Code			SC	Dept.	A	Contract Number		
M		Change									
X		Cancel									
County Department						Dept.		Orgn.	Contractor's License No.		
ED & PSG - Waste System Division											
County Department Contract Representative						Ph. Ext.		Amount of Contract			
Gerry Newcombe											
Fund	Dept.	Organization	Appr.	Obj/Rev	Source	Activity	GRC/PROJ/JOB Number				
SWM			200	2445							
Commodity Code			Estimated Payment Total by Fiscal Year								
			FY	Amount	I/D	FY	Amount	I/D			
Project Name											
Solid Waste Consultant											

THIS CONTRACT is entered into in the State of California by and between the County of San Bernardino, hereinafter called the County, and

Name

Hilton, Farnkopf & Hobson, LLC

hereinafter called "Consultant or Contractor"

Address

3990 Westerly Place, Suite 195

Newport Beach, California 92660-2311

Phone

Birth Date

(949) 251-8628

Federal ID No. or Social Security No.

IT IS HEREBY AGREED AS FOLLOWS:

(Use space below and additional bond sheets. Set forth service to be rendered, amount to be paid, manner of payment, time for performance or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

or completion, determination of satisfactory performance and cause for termination, other terms and conditions, and attach plans, specifications, and addenda, if any.)

- 1. Scope of Services.** Consultant (at times referred to as "Contractor" herein) will perform professional services upon terms and for the payments as described herein. The scope of services provided shall be in conformance with Attachment 1 hereto, which is incorporated herein and made part of this Agreement.
- 2. Independent Contractor.** County retains Consultant on an independent contractor basis, and Consultant is not an employee of County. Any additional personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations, respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and worker's compensation insurance.
- 3. Exclusive Engagement.** Except as provided herein, the Consultant, its employees, agents and subcontractors shall not accept any other employment which in any way pertains to the subject of the scope of this Agreement, until all work under the terms of this Agreement is completed or terminated.
- 4. Compensation.** As total consideration for performing all the duties of this Agreement and for all costs, expenses and obligations incurred by Consultant, County shall pay Consultant a sum not to exceed \$199,500. The cost of services is itemized in Attachment 2 hereto, which is incorporated herein and made part of this Agreement. This sum is to be paid as follows: Payments shall be due and payable within 30 days by the County subject to the receipt of an acceptable invoice from the Consultant. Invoices shall be submitted no more than monthly, and include the

date, contract number, invoice number, project name, Consultant's name and address, Consultant's employees and/or subcontractor's names, each employee's and/or subcontractor's hours worked, hourly charge, and any other authorized charges per this Agreement. Each invoice shall also describe the services provided and the costs incurred. Attached as Attachment 2b is a copy of the estimated budget of the expenses to be incurred, and services to be performed, by Consultant under the terms of this Agreement. Compensation due Consultant shall not be determined by or paid pursuant to such estimated budget. Rather such estimated budget was used to determine the appropriate "not to exceed" amount of this Agreement and will be used as a management tool by both the County and Consultant to help insure that Consultant's services are being effectively provided and utilized.

5. Records and Retention. Consultant shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of County during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three years from the date of final payment under this Agreement.
6. Term. Subject to Paragraph 8, this Agreement shall remain in full force and effect until completion of the scope of work set forth on the attached Attachment 1.
7. Time of Essence. Time is of the essence in completion of the duties required under this Agreement.
8. Termination. At its option, the County may terminate the whole or any part of this Agreement at any time by written notice to the Consultant, whether or not Consultant is in default. Upon such termination, Consultant shall deliver to County all documents, drafts, reports, materials and work of any nature pertaining to this document and in the possession of Consultant or under its control. In such event, Consultant shall be paid for the work performed under this Agreement to date of termination and for termination costs. The total sum paid to Consultant in the event of termination cannot exceed the total of the Agreement as set forth in Paragraph 4. In the event of termination, the County may complete the necessary work with its own staff or contract with another party to do the same, in any event using any and all materials existing at such time. The Contract Administrator, or authorized designee, shall have the power to exercise the County's right of termination under this paragraph.
9. Notice. All notices permitted or required under this Agreement shall be given to the respective parties at the following addresses or at such other address as the respective parties may provide in writing for this purpose:

CONSULTANT: Hilton, Farnkopf & Hobson, LLC
 Commercenter One
 3990 Westerly Place, Suite 195
 Newport Beach, CA 92660-2311
 Attn: Laith B. Ezzet, Vice President

COUNTY: Waste System Division
 222 West Hospitality Lane, Second Floor
 San Bernardino, CA 92415-0017
 Attn: Gerry Newcombe, Contract Administrator

Such notice shall be deemed made when personally delivered, or when mailed, forty-eight (48) hours after deposit in the U. S. Mail, first class postage pre-paid and addressed to the party at its applicable address.

10. Address for Communications. All memoranda, reports, drafts, communications or invoices to be sent to County under this Agreement shall be sent to the address as provided in paragraph 9.
11. Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of County.
12. Standard of Care; Licenses. Consultant shall perform the Services under this Agreement in a skillful and competent manner. Consultant shall be responsible to County for any errors or omissions in its performance of services under this Agreement. Consultant represents and warrants to County that it has all licenses, permits qualifications and approvals of whatever nature that are legally required to practice its profession and perform the Services. Consultant further represents and warrants that it shall keep in effect all such licenses, permits, and other approvals during the term of this Agreement.
13. No Assignment. The Agreement described herein is not assignable.
14. Indemnification. The Consultant agrees to indemnify, defend and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages, and/or liability arising out of this Agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim therefore, except where such indemnification is prohibited by law.
15. Insurance. Without in any way affecting the indemnity herein provided and in addition thereto, the Consultant shall secure and maintain throughout the term of this Agreement the following types of insurance with limits as shown:
- a. Workers' Compensation. A program of Worker's Compensation Insurance or a State-approved Self Insurance Program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits, covering all persons providing services on behalf of the Consultant and all risks to such persons under this Agreement.
 - b. Comprehensive General and Automobile Liability Insurance. This coverage to include contractual coverage and automobile liability coverage for owned, hired, and non-owned vehicles. The policy shall have combined single limits for bodily injury and property damage of not less than one million dollars (\$1,000,000).
 - c. Professional Liability Insurance. Professional Liability insurance with limits of least \$1,000,000 per claim or occurrence.
 - d. Additional Named Insured - All policies, except for the Workers' Compensation, Errors and Omissions and Professional Liability policies, shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insureds with respect to liabilities arising out of the performance of services hereunder.
 - e. Waiver of Subrogation Rights – Except for Errors and Omissions and Professional Liability, consultant shall require the carriers of the above required coverage's to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors.
 - f. Policies Primary and Non-Contributory - All policies required above are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

g. Proof of Coverage - Consultant shall immediately furnish certificates of insurance to the Waste System Division evidencing the insurance coverage, including endorsements above, required prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Division; and Consultant shall maintain such insurance from the time Consultant commences performance of services hereunder until the completion of such services. Within sixty (60) days of the commencement of this Agreement, the Consultant shall furnish certified copies of the policies and all endorsements.

h. Insurance Review -The above insurance requirements are subject to periodic review by the County. The County's Risk Manager is authorized, but not required, to reduce or waive any of the above insurance requirements whenever the Risk Manager determines that any of the above insurance is not available, is unreasonably priced, or is not needed to protect the interests of the county. In addition, if the Risk Manager determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Risk Manager is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonable related to the County's risk.

Any such reduction or waiver for the entire term of the Agreement and any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this Agreement. Consultant agrees to execute any such amendment within thirty (30) days of receipt.

16. Variance from Terms. There must be a written authorization from the County for any variance from the terms of this Agreement.
17. Waiver. No waiver of a breach of any provision of this Agreement shall constitute a waiver of any other breach, or of such provision. Failure of the Consultant or the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof. The remedies herein reserved shall be cumulative and additional to any other remedies in law or equity.
18. Severability. The invalidity in whole or in part of any provisions of this Agreement shall not void or affect the validity of any other provision.
19. Amendment. This Agreement shall be governed by the laws of the State of California and constitutes the entire agreement between the parties and supersedes all prior negotiations, discussions and preliminary understanding. This Agreement may be amended as the County and Consultant mutually agree in writing. Any such amendment must be signed and approved by authorized representatives of the Consultant and the County and approved by the Board of Supervisors of the County.
20. Venue. The parties each acknowledge that this Agreement has been entered into and is to be performed in the County of San Bernardino, State of California. Venue for any lawsuit pertaining to this Agreement shall be the Superior Court of California, County of San Bernardino, Central District.
21. Compliance with Law. Consultant shall comply with all the laws, programs and regulations required by law to be adhered to, including without limit Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act, County Policy 11-15, and other applicable federal, state and County laws, regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

